



WASHOE COUNTY

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HR N/A
Other N/A

STAFF REPORT

BOARD MEETING DATE: November 12, 2014

DATE: October 22, 2014
TO: Board of County Commissioners
FROM: Dave Solaro, Arch., P.E., Director
Community Services Department, 328-2040, dsolaro@washoecounty.us
THROUGH: Kevin Schiller, Assistant County Manager
SUBJECT: Second reading and adoption of an ordinance adopting Washoe County Requirements and Schedule of Rates, Tolls, and Charges for the Golden Valley Artificial Recharge Program; providing for Rates, Payments, Procedures and their Enforcement relating to conditions of service; exemptions; appeal procedures; and other matters properly related thereto, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and Truckee Meadows Water Authority merger. (All Commission Districts.)

SUMMARY

This action is to support the merger of the Washoe County Water Utility (Water Utility) with the Truckee Meadows Water Authority (TMWA) by recommending the Board of County Commissioners (Board) establish – Requirements and Schedule of Rates and Charges for the Golden Valley Artificial Recharge Program.

It was requested at the October 28, 2014 Board meeting that Ordinance No. 1470 be repealed; however, there are provisions within Ordinance No. 1470 relating to the rates, tolls, and charges for the Golden Valley Artificial Recharge Program. This item creates Requirements and Schedule of Rates, Tolls, and Charges specific to the Golden Valley Artificial Recharge Program.

Washoe County Strategic Objective supported by this item: Sustainability of our financial, social and natural resources.

PREVIOUS ACTION

On June 25, 2002, the Board adopted Ordinance 1166, adopting a scheduling of rates and charges for provision of artificial recharge water service by Washoe County within certain areas of unincorporated Washoe County and other matters properly related thereto.

On December 9, 2009, the Board entered into an interlocal agreement governing a proposed merger of the Water Utility with the TMWA Board of Directors.

AGENDA ITEM # 14

The Board and the TMWA Board of Directors held a joint meeting on March 19, 2014, and directed staffs from both entities to complete the merger with an anticipated closing date to occur in December 2014.

On October 28, 2014, the Board held the introduction and first reading of an ordinance adopting the Washoe County Requirements and Schedule of Rates, Tolls, and Charges for the Golden Valley Artificial Recharge Program; providing for Rates, Payments, Procedures and their Enforcement relating to conditions of service; exemptions; appeal procedures; and other matters properly related thereto; and, set a public hearing for second reading and possible adoption for November 12, 2014, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and TMWA merger.

BACKGROUND

TMWA and Washoe County entered into that certain Interlocal Agreement Governing the Merger of the Water Utility into TMWA dated January 29, 2010, which provides for the merger of the Water Utility into TMWA (Merger ILA).

Staffs from both utilities have been working diligently since the Joint meeting held in March of 2014 to complete the many actions necessary to fully consolidate the Washoe County Water Utility and TMWA. Ordinance 1470 will no longer be necessary as of the effective date of the merger as outlined in the Addendum to the Interlocal Agreement.

The Golden Valley Artificial Recharge Program will continue to exist with Washoe County playing an administrative role for the citizens within the program boundary. As such, there is a need to define the Artificial Recharge Program Requirements and Schedule of Rates, Tolls, and Charges. This item re-creates the program requirements contained within Ordinance 1470.

FISCAL IMPACT

There is no fiscal impact to Washoe County, and the creation of this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business. The provisions of this ordinance are currently in effect within Ordinance 1470 which is requested to be repealed.

RECOMMENDATION

It is recommended that the Board of County Commissioners hold the second reading and adoption of an ordinance adopting Washoe County Requirements and Schedule of Rates, Tolls, and Charges for the Golden Valley Artificial Recharge Program; providing for Rates, Payments, Procedures and their Enforcement relating to conditions of service; exemptions; appeal procedures; and other matters properly related thereto, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and Truckee Meadows Water Authority merger.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:
"Move to hold the second reading and adoption of an ordinance adopting Washoe County Requirements and Schedule of Rates, Tolls, and Charges for the Golden Valley Artificial Recharge Program; providing for Rates, Payments, Procedures and their Enforcement relating to conditions of service; exemptions; appeal procedures; and other matters properly related thereto, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and Truckee Meadows Water Authority merger."

SUMMARY: Adopts the Washoe County Requirements and Schedule of Rates and Charges for the Golden Valley Artificial Recharge Program and Provides Procedures for its Enforcement; and other matter properly related thereto.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE ADOPTING WASHOE COUNTY REQUIREMENTS AND SCHEDULE OF RATES, TOLLS, AND CHARGES FOR THE GOLDEN VALLEY ARTIFICIAL RECHARGE PROGRAM; PROVIDING FOR RATES, PAYMENTS, PROCEDURES AND THEIR ENFORCEMENT RELATING TO CONDITIONS OF SERVICE; EXEMPTIONS; APPEAL PROCEDURES.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

WASHOE COUNTY WATER SERVICE ORDINANCE

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ARTICLE 1. GENERAL PROVISIONS

- 1.1 Short Title. This Ordinance shall be known and may be cited as the Washoe County Schedule of Rates and Charges for the Golden Valley Artificial Recharge Program.
- 1.2 Authority and Purpose. The Board of County Commissioners for Washoe County is authorized to adopt ordinances and regulations for the governing and policing of Washoe County for the purpose of protecting and preserving the health, welfare and safety of the citizens of Washoe County. Pursuant to Chapter 244 and 244A of the Nevada Revised Statutes, Washoe County has worked with the homeowners of Golden Valley to construct, and operate a groundwater recharge water system and related facilities in unincorporated Washoe County. Pursuant to NRS 244.157, the Nevada legislature has granted counties the additional powers of a general improvement district created under Chapter 318 of the Nevada Revised Statutes, upon compliance with the same procedures required of a board of trustees governing such a general improvement district. By virtue of NRS 318.197, Washoe County is authorized to establish rules and fix a schedule of rates, tolls and charges for the provision of water service and facilities. To the extent that NRS 318.199 requires a resolution for the establishment and adoption of these rules and schedule of rates, tolls and charges for groundwater recharge service and facilities, this ordinance shall be construed in a manner as to satisfy the procedural and substantive requirements set forth in Chapter 318.

The purpose of this Ordinance is to:

- A. Establish rules, regulations, rates, tolls and charges governing those aspects of the groundwater recharge operations of the Department of Community Services over which the County has legal jurisdiction and to ensure that such rules, regulations, rates, tolls and charges are applied in a non-discriminatory manner to all customers within the Golden Valley Recharge Program service area; and
- B. Establish rules, regulations, including applicable fees, intended to ensure that customers of the groundwater recharge service fairly, accurately and promptly compensate the County for provision of water service.

The intent of this Ordinance is to establish schedules of rates, fees, and charges for providing a groundwater recharge program to the residents of Golden Valley, and to further allow for the exploration and assistance in transitioning this program to the ownership of the residents within the boundaries of the program.

ARTICLE 2. DEFINITIONS

- 2.1 Account Transfer shall mean any change made to a billing account, including but not limited to new ownership or new tenancy.
- 2.2 Approved shall mean accepted by the County as meeting an applicable specification stated or cited in this article, or as suitable for the proposed use.

- 2.3 Artificial Recharge shall mean manually adding water that meets drinking water standards to the aquifer. Artificial recharge is intended to increase the amount of water available for domestic use and may improve ground water quality where ground water quality is poor.
- 2.4 Artificial Recharge Region shall mean the place of use of water rights or hydrographic area where artificial recharge water is available to serve the regions designated in Schedule A.
- 2.5 Billing Period shall be the period for which a billing is made. It may be for an average month and need not coincide with the calendar month (i.e. may be billed on a cycle of 29 to 31 days).
- 2.6 Board shall mean the Board of County Commissioners.
- 2.7 Commercial Building shall mean any building, structure or facility or a portion thereof, devoted to the purposes of trade or commerce, such as a store or office building.
- 2.8 Contractor shall mean an individual, firm, corporation, partnership or association duly licensed by the State of Nevada to perform the type of work to be done under a Permit.
- 2.9 County shall mean the County of Washoe, Nevada.
- 2.10 Cubic Foot is the volume of water that occupies one cubic foot. The cubic foot is equal to 7.481 gallons.
- 2.11 Customer shall mean a person who receives service from the County within the Service Area or who owns the parcel within the Service Area.
- 2.12 Date of Presentation shall be the date upon which a bill or notice is either postmarked or hand delivered to the Customer.
- 2.13 Delinquent shall mean an account that has not been paid by the 1st day of the calendar month following the due date of payment specified on the bill.
- 2.14 Director shall mean the Director of the Department of Community Services.
- 2.15 Domestic Use extends to culinary and household purposes, in a single-family dwelling, the watering of a family garden, lawn and providing water to domestic animals (from Nevada Revised Statutes, Chapter 534).
- 2.16 Employee shall mean any individual employed by the County excluding independent contractors, consultants, and their employees.
- 2.17 Gallon is the volume of water that occupies 231 cubic inches.
- 2.18 Hydrographic Area is a subdivision of a hydrographic region as defined by the State Engineer's Office, may be subdivided further into Hydrographic Sub-Areas based on unique hydrological characteristics. Sub-Areas may be subdivided further into Areas or Drainage Areas based on additional hydrologic characteristics.

- 2.19 Inspector shall mean an individual designated to inspect facilities falling under the purview of this Ordinance.
- 2.20 Law is any statute, rule or regulation established by Federal, State, County or Municipal authorities.
- 2.21 Living Unit shall mean any residence, apartment, or other structure to be occupied for habitation by a single person or family and requiring water service.
- 2.22 May is permissive (see "Shall", Sec. 2.29).
- 2.23 Metered Service is a service for which charges are computed on the basis of measured quantities of water.
- 2.24 Non-potable Water shall mean water that is not safe for human consumption.
- 2.25 Owner shall mean a person who holds legal title to the property or who is under contract to purchase the property.
- 2.26 Person shall mean any individual, firm, association, organization, partnership, trust, company, corporation or entity, and any municipal, political, or governmental corporation, district, body, or agency other than the County.
- 2.27 Potable Water means any water meeting the recognized state and federal drinking water standards which have been established to ensure that water is safe for human consumption.
- 2.28 Premises shall mean an individual residential or commercial unit served by the recharge system.
- 2.29 Service Area shall mean areas as designated in Schedule A.
- 2.30 Shall is mandatory (see "May", Sec. 2.21).
- 2.31 Tenant shall mean a person renting or leasing commercial or residential property from the Owner or the Owner's selected representative.

ARTICLE 3. SCHEDULE OF RATES AND CHARGES

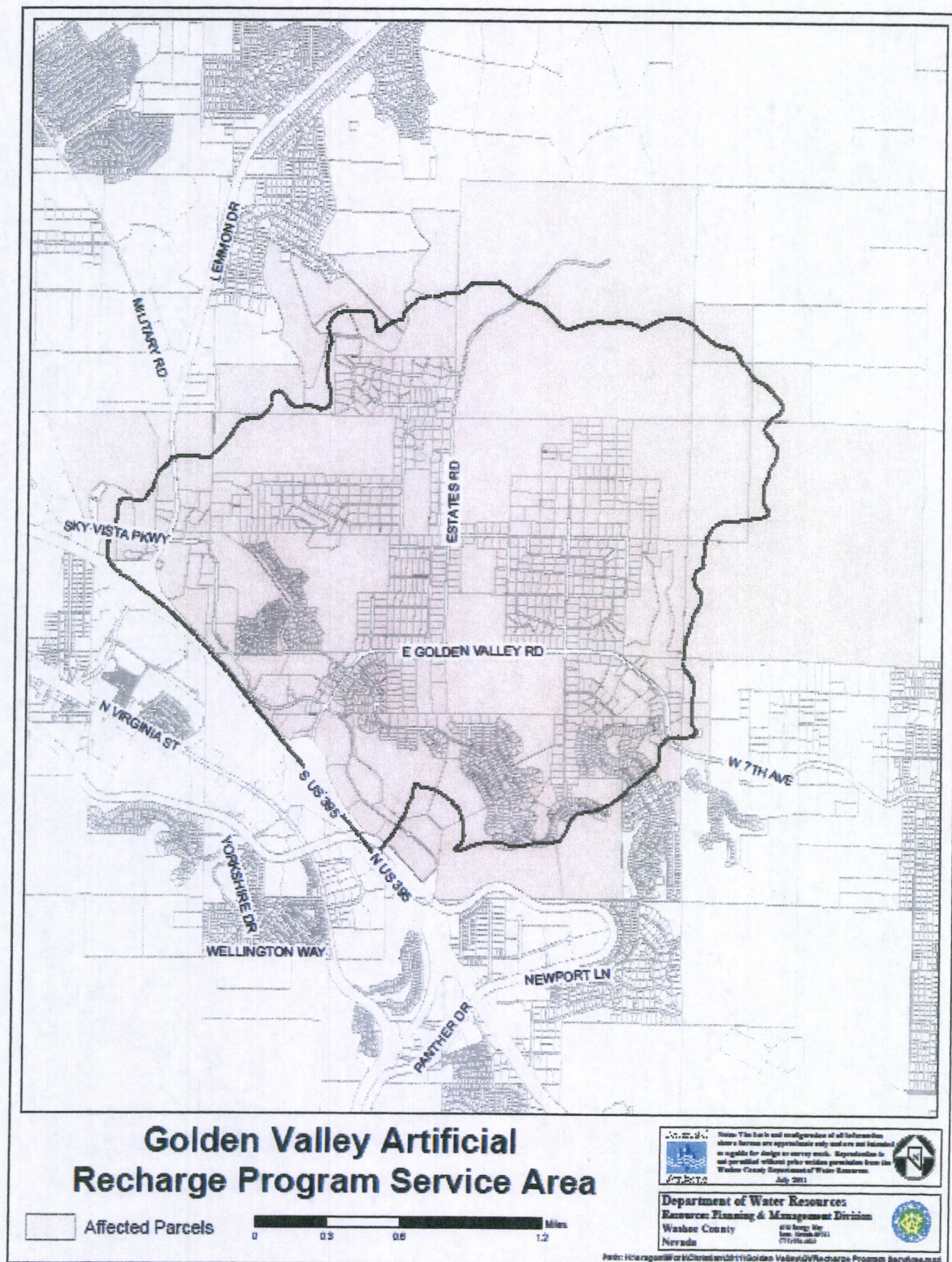
- 3.1 Schedule A - Golden Valley Groundwater Recharge. This schedule applies to all parcels within the Golden Valley area that have or can have an individual domestic well for domestic use.
- A. Affected Properties. All parcels in the Golden Valley hydrographic sub-basin shall be included in the Golden Valley Artificial Recharge Program area. Parcels located on the hydrographic sub-basin boundary between Golden Valley and the adjoining valley will have an artificial recharge service fee that is prorated. The prorated recharge service fee will be directly proportional to the percentage of the

parcel lying within the Golden Valley hydrographic sub-basin. See map in Figure 3-1 for the Golden Valley Artificial Recharge Program Service Area.

- B. Artificial Recharge Service Fee. All parcels identified in Article 3.1 subsection A that are not explicitly exempted by the provisions of Article 3.1 subsection D shall pay a monthly fee of \$22.66 for the artificial recharge program. Funds generated by the fees collected shall be used to pay for the ongoing operation of the program and the maintenance, rehabilitation and replacement of the facilities necessary to provide artificial recharge services to Golden Valley customers. Eligible program costs include, but are not limited to: paying for water rights purchases and leases; purchasing recharge water, operations and maintenance, including necessary and required treatment of surface water prior to recharge, water sampling, utility charges, labor costs, and equipment usage; and other items as necessary to operate the aquifer recharge system.
- C. Program Accounting and Operating Reserve. The County shall collect and account for the fees charged to Golden Valley customers separately and shall retain a minimum operational reserve of one hundred thousand dollars (\$100,000) to cover emergency repairs or corrections to the recharge system or to repair other damages as a result of a system failure. In the event that this operating reserve falls below \$100,000 the Department of Community Services shall immediately initiate an action to seek Board approval to implement a temporary recharge service fee increase of a minimum of five dollars (\$5.00) per month, or an amount necessary to restore the reserve fund to \$100,000 within twenty-four (24) months. Any temporary increase shall remain in effect until the Golden Valley Recharge Program operational reserve fund is restored to one hundred \$100,000.

Figure 3-1

Golden Valley Artificial Recharge Program Service Area



Golden Valley Artificial Recharge Program Service Area



D. Exemptions from Paying the Artificial Recharge Service Fee.

1. Any parcel in the Golden Valley hydrographic sub-basin that does not have a domestic well but has municipal water service or an adjacent water line owned and operated by a public water purveyor and that is available to the parcel for connection to the municipal water system is exempted from the monthly Artificial Recharge Service Fee. This exemption is based on the fact that Nevada law and Washoe County Health District Regulations will require any parcel with this circumstance to connect to the municipal water system rather than develop a domestic well. A requirement to connect eliminates the benefit to the property of the Artificial Recharge Program.
2. Parcels may be exempt from the recharge service fee if the parcel owner provides a legal survey conducted by a Nevada Registered Land Surveyor that verifies that the domestic well on the parcel is not located within the Golden Valley hydrographic sub-basin boundary. Survey documentation must identify the well coordinate projection in the United States Survey Feet, State Plane, Nevada West Zone, North American Datum, 1983. Accuracy of the survey coordinates must be included in the survey documentation. Well survey data must include a map identifying the well location on the subject parcel in the required projection.
3. A parcel may be eligible for exemption from the recharge service fee if the parcel owner submits documentation from a Nevada Registered Licensed Engineer certifying that the subject parcel is unbuildable. Unbuildable shall mean that it is physically impossible to construct a dwelling and drill a domestic well on the parcel. Documentation from the engineer must explain why the parcel is unbuildable. If, subsequently, a dwelling is constructed and a domestic well is drilled on the parcel, the parcel owner must pay all of the monthly recharge service fees that would have been levied if the exemption had not been granted plus a finance charge and administration fee of \$500. Finance charges shall be calculated as 1.5% per month on the outstanding balance.
4. A parcel without a domestic well may be eligible for an exemption if the parcel owner declares that a domestic well will never be constructed on the parcel. To apply for an exemption under this condition, the parcel owner must submit a signed agreement indicating that no domestic well will be constructed on the subject parcel and provide a certified and true copy of a legal and binding deed restriction or covenant recorded with the Washoe County Recorder's Office for the subject parcel stating that there will never be a domestic well on the property. The deed restriction or covenant shall state that if a domestic well is subsequently drilled on the parcel, the parcel owner must pay all of the monthly recharge service fees that would have been levied if the exemption had not been granted plus a finance charge and administration fee of \$500. Finance charge shall be calculated as 1.5% per month on the outstanding balance.

ARTICLE 4. TIME AND MANNER OF PAYMENT

- 4.1 Issuance of Bills. The County shall send out bills monthly, or at any other frequency it determines as appropriate, to each parcel within an Artificial Recharge Region.
- 4.2 Bills Due When Presented. Upon presentation, all bills shall be due and payable at the office of the Washoe County Treasurer or the office of the Washoe County Department of Community Services.
- 4.3 Delinquent Accounts. Accounts not paid in accordance with Article 3 are delinquent and shall be charged a late payment processing fee of 1.5 percent of the outstanding balance plus a handling fee of \$4.00 per delinquent account monthly.
- 4.4 Represents Lien on Property. Until paid, all rates, tolls and charges provided in this Ordinance constitute a perpetual lien on and against the property served and may be foreclosed upon as provided by law.
- 4.5 Proration of Service Charges; Minimum Bill. If any opening or closing bill is for a period shorter than the regular billing period, the base rate charge and monthly flat rate charges for service shall be reduced in the same proportion as the actual period of use is reduced from the regular billing period.
- 4.6 Failure to Receive a Bill. Failure to receive a bill does not relieve the Customer of the obligation to pay for services received.
- 4.7 Checks Not Honored by Bank. Checks presented in payment of bills that are returned by a bank shall be treated as though no payment had been made and a \$25.00 handling charge will be levied by the County plus any additional charges of the bank. Redemption of returned checks may be required to be by cash or equivalent. The Customer must reimburse the County for any returned check fees charged by a bank to the County.
- 4.8 Deferred Payment. County shall provide a program for the deferred payment of a delinquent bill for any Customer who requests the program and agrees in writing to pay:
- A. The arrearage within ninety (90) days after the execution of this agreement, in four equal installments, with the first payment to be made upon execution of the agreement; and
 - B. All future bills when due.
- The ninety-day period otherwise provided for payment of the amounts in arrears may be extended at the discretion of the County.
- 4.9 Disputed Bills. In the case of a dispute between a Customer and the County as to the correct amount of any bill rendered by the County for water service furnished to the Customer, the Customer will deposit with the County the amount claimed by the County to be due.

- 4.10 Arbitration of Dispute. In the event of dispute between the Customer and the County, respecting any bill, charge or service, the County shall forthwith make such investigation as shall be required by the particular case, and report the result thereof to the Customer. In the event that the complaint cannot be satisfactorily adjusted, the County or Customer may make application to the County for adjustment of the complaint, and the County shall notify the Customer in writing or otherwise, that he has the privilege of appeal to the Board.

ARTICLE 5. MISCELLANEOUS

- 5.1 Interpretation and Application. The Director of the Department of Community Services shall have discretion in the interpretation and application of this Ordinance. This discretion shall be exercised to maintain equity among users with full documentation, which will accomplish the intent of the Ordinance, policies, and procedures of the Department, and protect the public health, safety, and welfare.
- 5.2 Emergency Water Use Limitations. In the event of water shortages, emergency conditions, or inability of the delivery system to provide adequate volumes of water, the Director shall have the authority to limit water usage. Any actions taken by the Director pursuant to this section shall be reviewed by the Board of County Commissioners at its next regularly scheduled meeting in complete compliance with Chapter 241 of Nevada Revised Statutes. The Department of Community Services may enforce any action taken under these sections by any legal means, including disconnection of a customer's water service.
- 5.3 Special Conditions. In the event that conditions arise which are not specifically covered by this ordinance, the Board of County Commissioners may take whatever action, including establishing rates and charges, which, in its discretion, is warranted.
- 5.4 Effective Date. This ordinance shall become effective on the date specified by the Board of County Commissioners in its motion for adoption.
- 5.5 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof to any person or circumstance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance or the application of such provision to other persons or circumstances. The Board hereby declares that it would have passed this Ordinance or any section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared to be unconstitutional.
- 5.6 Words and Phrases. For the purposes of this Ordinance, all words used herein in the present tense shall include the future; all words in the plural shall include the singular; and all words in the singular shall include the plural.
- 5.7 All actions, proceedings, matters and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.

5.8 The officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance, including without limitation the generality of the foregoing, the preparation of all necessary documents, legal proceedings and other items necessary or desirable for the providing of financial assistance. The County Clerk is authorized to make non-substantive edits and corrections to this Ordinance.

5.9 All ordinances, resolutions, procedures, bylaws and orders, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, procedures, bylaw or order, or part thereof, heretofore repealed.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Proposed on the _____ day of _____, 2014.

Proposed by Commissioner _____.

Passed on the _____ day of _____, 2014.

Vote:

Ayes:

Nays:

Absent:

David Humke, Chairman
Washoe County Commission

ATTEST:

County Clerk

This ordinance shall be in force and effect from and after the _____ day of _____, 2014.